

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RUDELPHO AGUAS,

Petitioner,

vs.

WARDEN BACA, et al.,

Respondents.

Case No. 3:13-cv-00063-RCJ-WGC

ORDER

The court directed petitioner to show cause why this action should not be dismissed as untimely. Order (#4). Petitioner has submitted a reply and objection (#5). The court is not persuaded, and the court dismisses the action.

Most of the reply and objection (#5) contains general statements of law and citations to court opinions. Petitioner does not attempt either to show that the action is timely or to show that equitable tolling is warranted. Some of the statements and citations involve jurisdiction. If petitioner is arguing that the action should proceed because the state courts lacked jurisdiction, he is incorrect. The language of the statute of limitation, 28 U.S.C. § 2244(d), contains no such exceptions for the question of jurisdiction, and no court has determined that such exceptions exist. Cf. Barreto-Barreto v. United States, 551 F.3d 95, 100 (1st Cir. 2008) (holding that no exception for jurisdictional challenges exists for equivalent period of limitations of motion attacking a federal sentence pursuant to 28 U.S.C. § 2255). Furthermore, petitioner was convicted of trafficking and possession of a concealed weapon. The fast-track statement in petitioner's direct appeal, which petitioner has attached to his petition, shows that both of these crimes are felonies. The state district

1 court has jurisdiction over felonies. In criminal cases, justice courts have jurisdiction over only
2 misdemeanors. Nev. Rev. Stat. § 4.370(3). District courts have jurisdiction where justice courts do
3 not have jurisdiction, including felonies. Nev. Const. Art. 6, § 6. Even if a challenge to a state
4 court's jurisdiction is an exception to § 2244(d), the state district court had jurisdiction over
5 petitioner's criminal case.

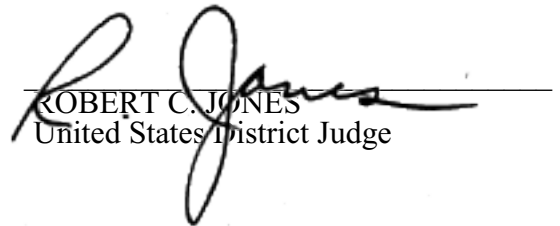
6 Reasonable jurists would not find the court's conclusions to be debatable or wrong, and the
7 court will not issue a certificate of appealability.

8 IT IS THEREFORE ORDERED that this action is **DISMISSED** with prejudice for being
9 untimely. The clerk of the court shall enter judgment accordingly.

10 IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

11 Dated: July 8, 2014

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ROBERT C. JONES
United States District Judge